

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5397

A bill to amend 1994 PA 295, entitled
"Sex offenders registration act,"
by amending sections 5a, 34, and 35 (MCL 28.725a, 28.734, and
28.735), section 5a as amended by 2004 PA 240, section 34 as added
by 2005 PA 127, and section 35 as added by 2005 PA 121.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5a. (1) Not later than December 1, 2004, the department
2 shall mail a notice to each individual registered under this act
3 who is not in a state correctional facility explaining the
4 individual's duties under this section and this act as amended and
5 the procedure for registration, notification, and verification and
6 paying the registration fee prescribed under subsection (7) or
7 section 7(1).

8 (2) Upon the release of an individual registered under this

1 act who is in a state correctional facility, the department of
2 corrections shall provide written notice to that individual
3 explaining his or her duties under this section and this act as
4 amended and the procedure for registration, notification, and
5 verification and payment of the registration fee prescribed under
6 subsection (7) or section 7(1). The individual shall sign and date
7 the notice. The department of corrections shall maintain a copy of
8 the signed and dated notice in the individual's file. The
9 department of corrections shall forward the original notice to the
10 department within 30 days, regardless of whether the individual
11 signs it.

12 (3) Not later than January 15, 2000, an individual registered
13 under this act who is not incarcerated shall report in person to
14 the local law enforcement agency or sheriff's department having
15 jurisdiction where he or she is domiciled or resides or to the
16 department post in or nearest to the county where he or she is
17 domiciled or resides. The individual shall present proof of
18 domicile or residence and update any information that changed since
19 registration, including information that is required to be reported
20 under section 4a. An individual registered under this act who is
21 incarcerated on January 15, 2000 shall report under this subsection
22 not less than 10 days after he or she is released.

23 (4) Except as provided in subsection (5), following initial
24 verification under subsection (3), or registration under this act
25 after January 15, 2000, an individual required to be registered
26 under this act who is not incarcerated shall report in person to
27 the local law enforcement agency or sheriff's department having

1 jurisdiction where he or she is domiciled or resides or to the
2 department post in or nearest to the county where he or she is
3 domiciled or resides for verification of domicile or residence as
4 follows:

5 (a) If the person is registered only for 1 or more
6 ~~misdemeanor~~ listed offenses **THAT ARE MISDEMEANORS**, not earlier
7 than January 1 or later than January 15 of each year after the
8 initial verification or registration. As used in this subdivision,
9 "misdemeanor" ~~-listed offense-~~ means ~~-a listed offense that is any~~
10 ~~of the following:-~~ **THAT TERM AS DEFINED IN SECTION 1 OF CHAPTER I**
11 **OF THE CODE OF CRIMINAL PROCEDURE, 1927 PA 175, MCL 761.1.**

12 ~~—— (i) A violation of section 145a of the Michigan penal code,~~
13 ~~1931 PA 328, MCL 750.145a, committed before June 1, 2002.~~

14 ~~—— (ii) A violation of section 145c(4), 167(1)(f), or 448 of the~~
15 ~~Michigan penal code, 1931 PA 328, MCL 750.145c, 750.167, and~~
16 ~~750.448.~~

17 ~~—— (iii) A violation of section 335a of the Michigan penal code,~~
18 ~~1931 PA 328, MCL 750.335a, other than a violation committed by a~~
19 ~~person who was, at the time of the offense, a sexually delinquent~~
20 ~~person as defined in section 10a of the Michigan penal code, 1931~~
21 ~~PA 328, MCL 750.10a.~~

22 ~~—— (iv) A violation of a local ordinance of a municipality~~
23 ~~substantially corresponding to a section described in subparagraph~~
24 ~~(i), (ii), or (iii).~~

25 ~~—— (v) A violation of a law of this state or a local ordinance of~~
26 ~~a municipality that by its nature constitutes a sexual offense~~
27 ~~against an individual who is less than 18 years of age if the~~

~~violation is not specifically designated a felony and is punishable by imprisonment for 1 year or less.~~

~~—— (vi) An attempt or conspiracy to commit an offense described in subparagraphs (i) to (v).~~

~~—— (vii) An offense substantially similar to an offense described in subparagraphs (i) to (vi) under a law of the United States, any state, or any country or under tribal or military law.~~

(b) If the person is registered for 1 or more ~~felony~~ listed offenses **THAT ARE FELONIES**, not earlier than the first day or later than the fifteenth day of each April, July, October, and January following initial verification or registration. As used in this subdivision, "felony" ~~—listed offense—~~ means ~~a listed offense that is any of the following:~~ **THAT TERM AS DEFINED IN SECTION 1 OF CHAPTER I OF THE CODE OF CRIMINAL PROCEDURE, 1927 PA 175, MCL 761.1.**

~~—— (i) A violation of section 145a of the Michigan penal code, 1931 PA 328, MCL 750.145a, committed on or after June 1, 2002.~~

~~—— (ii) A violation of section 145b, 145c(2) or (3), 349, 350, 455, 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.145b, 750.145c, 750.349, 750.350, 750.455, 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g.~~

~~—— (iii) A violation of section 335a of the Michigan penal code, 1931 PA 328, MCL 750.335a, committed by a person who was, at the time of the offense, a sexually delinquent person as defined in section 10a of the Michigan penal code, 1931 PA 328, MCL 750.10a.~~

~~—— (iv) A violation of a law of this state that by its nature constitutes a sexual offense against an individual who is less than~~

~~18 years of age if the violation is specifically designated a felony or is punishable by imprisonment for more than 1 year.~~

~~— (v) An attempt or conspiracy to commit an offense described in subparagraphs (i) to (iv).~~

~~— (vi) An offense substantially similar to an offense described in subparagraphs (i) to (v) under a law of the United States, any state, or any country or under tribal or military law.~~

(5) The continued reporting requirements of this section following initial registration do not apply to an individual convicted as a juvenile of committing an offense described in section 8c(15)(a) or (b) committed by the individual when he or she was less than 17 years of age, except that the individual shall report a change in his or her residence within this state or to another state as provided in this section within 10 days after the change of residence is made. If the individual fails to file a petition under section 8c before he or she becomes 18 years of age, or if his or her petition is denied by the court, the individual shall report as otherwise required under this section.

(6) When an individual reports under subsection (3) or (4), an officer or authorized employee of the local law enforcement agency, sheriff's department, or department post shall verify the individual's residence or domicile and any information required to be reported under section 4a. The officer or authorized employee shall sign and date a verification form. The officer shall give a copy of the signed form showing the date of verification to the individual. The officer or employee shall forward verification information to the department by the law enforcement information

1 network in the manner the department prescribes. The department
2 shall revise the databases maintained under section 8 as necessary
3 and shall indicate verification in the compilation under section
4 8(2).

5 (7) Except as otherwise provided in section 5b, beginning
6 October 16, 2004, an individual who reports as prescribed under
7 subsection (3) or (4) and who has not already paid the fee
8 prescribed under section 7(1) shall pay a \$35.00 registration fee.
9 An individual shall only be required to pay a fee once under this
10 subsection.

11 (8) An individual required to be registered under this act
12 shall maintain either a valid operator's or chauffeur's license
13 issued under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to
14 257.923, or an official state personal identification card issued
15 under 1972 PA 222, MCL 28.291 to 28.300, with the individual's
16 current address. The license or card may be used as proof of
17 domicile or residence under this section. In addition, the officer
18 or authorized employee may require the individual to produce
19 another document bearing his or her name and address, including,
20 but not limited to, voter registration or a utility or other bill.
21 The department may specify other satisfactory proof of domicile or
22 residence.

23 (9) Not earlier than January 1, 2000 or later than January 15,
24 2000, an individual registered under this act who is not
25 incarcerated shall report in person to a secretary of state office
26 and have his or her digitized photograph taken. An individual
27 registered under this act who is incarcerated on January 15, 2000

1 shall report under this subsection not less than 10 days after he
2 or she is released. The individual is not required to report under
3 this subsection if he or she had a digitized photograph taken for
4 an operator's or chauffeur's license or official state personal
5 identification card before January 1, 2000, or within 2 years
6 before he or she is released. The photograph shall be used on the
7 individual's operator's or chauffeur's license or official state
8 personal identification card. The individual shall have a new
9 photograph taken when he or she renews the license or
10 identification card as provided by law. The secretary of state
11 shall make the digitized photograph available to the department for
12 a registration under this act.

13 (10) If an individual does not report under subsection (3) or
14 (4) or section 4a, the department shall notify the local law
15 enforcement agency, sheriff's department, or department post. An
16 appearance ticket may be issued for the individual's failure to
17 report as provided in sections 9a to 9g of chapter IV of the code
18 of criminal procedure, 1927 PA 175, MCL 764.9a to 764.9g.

19 (11) The department shall prescribe the form for the notices
20 and verification procedures required under this section.

21 Sec. 34. (1) Except as provided in this section and section
22 36, an individual required to be registered under article II shall
23 not do 1 or more of the following:

24 (a) Work within a student safety zone.

25 (b) Loiter within a student safety zone.

26 (2) An individual who violates this section is guilty of a
27 crime as follows:

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1 (a) For the first violation, the individual is guilty of a
2 misdemeanor punishable by imprisonment for not more than 1 year or
3 a fine of not more than \$1,000.00, or both.

4 (b) ~~For the second or subsequent violation, the~~ **AN**
5 individual **WHO VIOLATES THIS SECTION AND HAS 1 OR MORE PRIOR**
6 **CONVICTIONS UNDER THIS SECTION** is guilty of a felony punishable by
7 imprisonment for not more than 2 years or a fine of not more than
8 \$2,000.00, or both.

9 (3) Subsection (1)(a) does not apply to any of the following:

10 (a) An individual who was working within a student safety zone
11 ~~at the time the amendatory act that added this section was enacted~~
12 ~~into law~~ **ON JANUARY 1, 2006**. However, this exception does not
13 apply to an individual who initiates or maintains contact with a
14 minor within that student safety zone.

15 (b) An individual whose place of employment is within a
16 student safety zone solely because a school is relocated or is
17 initially established 1,000 feet or less from the individual's
18 place of employment. However, this exception does not apply to an
19 individual who initiates or maintains contact with a minor within
20 that student safety zone.

21 (c) An individual who only intermittently or sporadically
22 enters a student safety zone for the purpose of work. However, this
23 exception does not apply to an individual who initiates or
24 maintains contact with a minor within a student safety zone **<<OTHER THAN
AN ATTORNEY WHO INITIATES OR MAINTAINS CONTACT WITH A MINOR WHO IS HIS OR
HER CLIENT SOLELY WITHIN THE CONTEXT OF AN ATTORNEY-CLIENT
RELATIONSHIP>>**.

25 (4) This section does not prohibit an individual from being
26 charged with, convicted of, or punished for any other violation of
27 law that is committed by that individual while violating this

1 section.

2 (5) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT AN
3 INDIVIDUAL FROM EXERCISING HIS OR HER RIGHT TO VOTE.

4 Sec. 35. (1) Except as otherwise provided in this section and
5 section 36, an individual required to be registered under article
6 II shall not reside within a student safety zone.

7 (2) An individual who violates subsection (1) is guilty of a
8 crime as follows:

9 (a) For the first violation, the individual is guilty of a
10 misdemeanor punishable by imprisonment for not more than 1 year or
11 a fine of not more than \$1,000.00, or both.

12 (b) ~~For the second or subsequent violation, the~~ AN
13 individual WHO VIOLATES THIS SECTION AND HAS 1 OR MORE PRIOR
14 CONVICTIONS UNDER THIS SECTION is guilty of a felony punishable by
15 imprisonment for not more than 2 years or a fine of not more than
16 \$2,000.00, or both.

17 (3) This section does not apply to any of the following:

18 (a) An individual who is not more than 19 years of age and
19 attends secondary school or postsecondary school, and resides with
20 his or her parent or guardian. However, this exception does not
21 apply to an individual who initiates or maintains contact with a
22 minor within that student safety zone. However, the individual may
23 initiate or maintain contact with a minor with whom he or she
24 attends secondary school or postsecondary school in conjunction
25 with that school attendance.

26 (b) ~~The~~ AN individual WHO is not more than 26 years of age
27 and attends a special education program, and resides with his or

1 her parent or guardian or resides in a group home or assisted
2 living facility. However, an individual described in this
3 subdivision shall not initiate or maintain contact with a minor
4 within that student safety zone. The individual shall be permitted
5 to initiate or maintain contact with a minor with whom he or she
6 attends a special education program in conjunction with that
7 attendance.

8 (c) An individual who was residing within that student safety
9 zone ~~at the time the amendatory act that added this section was~~
10 ~~enacted into law~~ **ON JANUARY 1, 2006**. However, this exception does
11 not apply to an individual who initiates or maintains contact with
12 a minor within that student safety zone.

13 (d) An individual who is a patient in a hospital or hospice
14 that is located within a student safety zone. However, this
15 exception does not apply to an individual who initiates or
16 maintains contact with a minor within that student safety zone.

17 (e) An individual who resides within a student safety zone
18 because the individual is an inmate or resident of a prison, jail,
19 juvenile facility, or other correctional facility or is a patient
20 of a mental health facility under an order of commitment. However,
21 this exception does not apply to an individual who initiates or
22 maintains contact with a minor within that student safety zone.

23 (4) An individual who resides within a student safety zone and
24 who is subsequently required to register under article II shall
25 change his or her residence to a location outside the student
26 safety zone not more than 90 days after he or she is sentenced for
27 the conviction that gives rise to the obligation to register under

1 article II. However, this exception does not apply to an individual
2 who initiates or maintains contact with a minor within that student
3 safety zone during the 90-day period described in this subsection.

4 (5) This section does not prohibit an individual from being
5 charged with, convicted of, or punished for any other violation of
6 law that is committed by that individual while violating this
7 section.

8 Enacting section 1. This amendatory act takes effect January
9 1, 2006.